

REMARKS

Claims 1-87 were pending as of the action mailed on June 18, 2007.

Claims 1, 15-17, 28-29, 43-45, 56-57, 71-73, and 82 are being amended. Claims 21, 23, 25, 49, 51, 53, 77, 79, 81, and 83-87 are being cancelled. No new claims are being added. No new matter has been added.

Support for the amendments to claims 1, 29 and 57 can be found in the specification at least at page 4, lines 20-29; page 6, lines 21-24; page 8, lines 4-20; and page 10, line 11 through page 11, line 27.

Support for the amendments to claims 28, 56 and 82 can be found in the specification at least at page 9, lines 8 through page 10, line 20 and page 12, lines 4-24.

Reexamination of the application and reconsideration of the action are respectfully requested in light of the foregoing amendments and the following remarks.

Section 112 Rejections

Claims 1-82 and 86 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the examiner rejected the claim language “updating the update application” and “customizing a user interface” as not finding support in the originally filed disclosure. Solely to expedite prosecution, independent claims 1, 28, 29, 56, 57, and 82 have been amended to remove the “updating” language.

Independent claim 83 and dependent claims 84-87 have been cancelled. Claims 2-20, 22, 24, 26, and 27 depend from claim 1. Claims 30-48, 50, 52, 54, and 55 depend from claim 29.

Claims 58-76, 78, and 80 depend from claim 57.

Withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is therefore respectfully requested.

Section 102 Rejections

Claims 1-15, 18-26, 29-43, 46-54, and 83-87 were rejected under 35 U.S.C. § 102(b), as allegedly being anticipated by U.S. Patent No. 6,151,643 (“Cheng”).

Claims 28 and 56 were rejected under 35 U.S.C. § 102(e), as allegedly being anticipated by U.S. Patent No. 6,904,592 (“Johnson”).

Claims 1 and 29

The examiner rejected claims 1 and 29 citing several sections of Cheng. The applicant has amended claim 1 to include limitations not taught or described by Cheng. Specifically, the applicant has amended claims 1 and 29 to better describe a stateless update server which does not evaluate or make decisions regarding the update process in the client environment. Additionally, the update instructions are recited to be entirely platform-independent and to comprise scheduling, user interface, and manager instructions which are stored and executed in the client environment.

Claims 28 and 56

The examiner rejected claims 28 and 56 citing several sections of Cheng. The applicant has amended claims 28 and 56 to include limitations not taught or described by Cheng. Specifically, the applicant has amended claims 28 and 56 to better describe the use of the updater application to access information about hardware and software in the client environment. The updater application uses the information about the client environment to access a stateless server and download platform-independent updates and installer applications from the stateless server.

Remaining Claims

The remaining claims 2-15 and 18-26 depend from or correspond to independent claim 1, claims 30-43 and 46-54 depend from or correspond to independent claim 29, and all are allowable for at least the reasons that apply to those independent claims.

Withdrawal of the rejection under 35 U.S.C. § 102(b) of claims 1-15, 18-26, 29-43, and 46-54 is therefore respectfully requested. Additionally, and for the reasons noted above with respect to the rejection under 35 U.S.C. § 102(b), withdrawal of the rejection under 35 U.S.C. § 102(e) of claims 28 and 56 is also respectfully requested.

Section 103 Rejections

Claims 16-17 and 44-45 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cheng in view of Johnson.

Claims 27 and 55 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cheng in view of Applicant Admitted Prior Art (“AAPA”).

Claims 16-17, 27, 44-45, and 55

The applicant respectfully submits that claims 16-17, and 27 depend from or correspond to independent claim 1, and claims 44-45, and 55 depend from or correspond to independent claim 29, and are allowable for at least the reasons that apply to those independent claims.

Withdrawal of the rejection under 35 U.S.C. § 103(a) is therefore respectfully requested.

Remaining Claims

Claims 57-82

The applicant notes that the examiner did not reject claims 57-82 using prior art. The only rejection of claims 57-82 indicated in the action mailed June 18, 2007, is a rejection under 35 U.S.C. § 112, first paragraph, as noted above. As the applicant has amended the claims to overcome the rejection under 35 U.S.C. § 112, first paragraph, the applicant respectfully submits that claims 57-82 are therefore allowable.

Conclusion

For the foregoing reasons, the applicant submits that all the claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the examiner, the applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, the applicant’s selecting some particular arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, the applicant’s decision to amend or cancel any claim should not be

Applicant : Edward R. Rowe, et al.
Serial No. : 10/651,697
Filed : August 29, 2003
Page : 23 of 23

Attorney Docket No.: 07844-592001 / P545

understood as implying that the applicant agrees with any positions taken by the examiner with respect to that claim or other claims.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date:October 18, 2007

/Arriènne M. Lezak/

Arriènne M. Lezak
Reg. No. 51,943

Customer No. 21876
Fish & Richardson P.C.
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

50424404.doc